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Message Text

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----------098093 181955Z /43
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TO AMEMBASSY VIENNA IMMEDIATE
INFO AMEMBASSY TOKYO

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E.O. 11652: N/A

TAGS: EAIR, AV

SUBJECT: CIVAIR: AUSTRIA DENOUNCES AIR SERVICES AGREEMENT

REF: A. VIENNA 1205, B. HURLEY/AMBACH TELCON 2/18

1. IN FINAL MINUTES OF THREE-DAY CONSULTATIONS AUSTRIAN DEL HANDED OVER NOTICE OF TERMINATION OF U.S.-AUSTRIAN AIR TRANSPORT AGREEMENT OF 1966. DURING FIRST TWO DAYS OF TALKS, IT APPEARED A PRACTICAL SOLUTION COULD BE REACHED AND IN FACT AUSTRIAN SIDE INDICATED IT WANTED SUCH SOLUTION. ON THIRD DAY, HOWEVER, IT EMERGED THAT AUSTRIAN SIDE HAD CONSIDERABLY MORE IN MIND, VIZ. FORMAL U.S. RENUNCIATION OF FIFTH FREEDOM RIGHTS IN FORM OF AMENDMENT OF AGREEMENT, CONFIDENTIAL EXCHANGE OF NOTES, OR IN MEMORANDUM OF CONSULTATION. AUSTRIAN SIDE MADE IT CLEAR THIS WAS NON NEGOTIABLE DEMAND AND THAT DENUNCIATION OF AGREEMENT MUST
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PRECEDE FURTHER DISCUSSIONS CONCERNING MODIFICATIONS OF AGREEMENT.

2. IN OPENING SESSION ON FEB 15, AUSTRIAN DEL INDICATED THAT PAN AM'S RETURN TO VIENNA MARKET MADE IT NECESSARY FOR AUSTRIA TO SEEK AMENDMENT OF AGREEMENT WHICH WOULD COMPLETELY ELIMINATE U.S. AIRLINE FIFTH FREEDOM COMPETITION

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ON AUA ROUTES. U.S. DEL REPLIED THAT IT COULD NOT NEGOTIATE ON THIS BASIS BUT THAT IT WAS WILLING TO EXPLORE WITH AUSTRIAN DEL PRACTICAL SOLUTION WHICH WOULD GIVE AUA AND GOA ASSURANCES IT NEEDED. USING REFTEL ARGUMENTS, AUSTRIAN DEL ALSO ASSERTED PAN AM'S PROPOSED SFO/LHR/VIE SERVICES BETWEEN MARCH 3 AND APRIL 29 WERE INCONSISTENT WITH AIR TRANSPORT AGREEMENT. USING ARGUMENTS WHICH FOLLOW SEPTEL, U.S. SAID THIS WAS NOT THE CASE. U.S. DEL SUGGESTED THAT TO AVOID DEBATE OVER INTERPRETATION OF AGREEMENT QUESTION SHOULD BE PUT ASIDE.

3. AT SECOND SESSION ON FEB 16, U.S. SAID THAT WHILE U.S. CONTINUED TO TAKE EXCEPTION TO AUSTRIAN DELS ASSERTIONS RE CHANGE OF GAUGE AND PAN AM'S CAPACITY, ISSUE WAS MOOT IN PRACTICAL SENSE BECAUSE PAN AM WOULD DEFER SERVICE TO VIENNA UNTIL APRIL 29 WHEN IT WOULD FLY NON STOP. QUESTION OF PAN AM SERVICE TO WARSAW WAS RESOLVED ON BASIS THAT PAN AM COULD OPERATE BETWEEN VIENNA AND WARSAW WITH RIGHT TO CARRY ITS OWN STOPOVER TRAFFIC BUT NO FIFTH FREEDOM TRAFFIC BETWEEN THOSE CITIES. AT CLOSE OF SESSION, U.S. DEL UNDERTOOK TO DRAFT MEMORANDUM OF CONSULTATION SETTING FORTH UNDERSTANDINGS THAT HAD BEEN REACHED.

4. BRIEFLY, DRAFT MEMORANDUM SET FORTH AUSTRIAN POSITION RE ELIMINATION OF U.S. FIFTH FREEDOM RIGHTS IN AUA ROUTES
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AND NEED THEREFORE TO AMEND AGREEMENT TO REFLECT THIS, AND INCONSISTENCY OF AGREEMENT WITH PAN AM'S MARCH 3 - APRIL 29 SERVICE. IT ALSO SET FORTH U.S. POSITION THAT U.S. COULD NOT NEGOTIATE ON THIS BASIS BUT WAS WILLING TO NEGOTIATE POSSIBLE CHANGES TO ROUTE ANNEX. DRAFT ALSO DESCRIBED PAN AM PLANS TO DEFER VIENNA SERVICES.

5. AT FINAL SESSION AUSTRIA DEL REJECTED MEMORANDUM AND INSISTED ON LANGUAGE TO EFFECT THAT U.S. AGREE ITS AIRLINE WOULD NOT CARRY FIFTH FREEDOM TRAFFIC ON AUA ROUTES. U.S. DEL EXPLAINED THAT U.S. HAD GUARANTEED THIS WOULD BE CASE AT LEAST THROUGH OCTOBER 31 (I.E., END OF SUMMER TRAFFIC SEASON) AND WOULD VERY LIKELY BE CASE THEREAFTER. U.S. DEL ALSO POINTED OUT THAT IT HAD AGREED TO NEGOTIATE QUESTION OF U.S. FIFTH FREEDOM RIGHTS IN MEANTIME. AUSTRIAN DEL REPLIED THAT IT HAD TO HAVE FORMAL ASSURANCES THAT U.S. AIRLINE WOULD NOT COMPETE WITH AUA. AUSTRIAN DEL SAID IF IT COULD NOT GET THESE ASSURANCES, IT WOULD DENOUNCE AGREEMENT.

6. IN ORDER TO PROVIDE GREATER ASSURANCES, U.S. DEL SUGGESTED AGREEMENT WHEREBY U.S. GOVERNMENT WOULD INFORM

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GOA IF U.S. AIRLINE PROPOSED COMPETING WITH AUA FOLLOWING

OCTOBER 31 AND WOULD CONSULT IF REQUESTED BY GOA. U.S. DEL REMINDED AUSTRIAN DEL THAT 1975 CONSULTATION, AS WELL AS CURRENT CONSULTATION WITH RESPECT TO IMMEDIATE PROBLEMS, HAD RESULTED IN UNDERSTANDING COMPLETELY SATISFACTORY TO AUSTRIAN SIDE. AUSTRIAN DEL ASSERTED CONSULTATIONS ARE UNDESIRABLE AND THAT AUSTRIAN SIDE NEED FIRM ASSURANCES WHICH WOULD PRECLUDE NECESSITY OF FURTHER CONSULTATIONS. U.S. DEL PROPOSED CONTINUING CURRENT TALKS AT LATER DATE, BUT AUSTRIAN DEL SAID IN EFFECT A FEW WEEKS WOULD PROBABLY NOT CHANGE POSITIONS. AUSTRIAN DEL SAID DENUNCIATION OF AGREEMENT WAS NECESSARY; U.S. SHOULD NOT VIEW IT AS UNFRIENDLY ACT; GOVERNMENTS OFTEN DENOUNCED AGREEMENTS; IT
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WAS A MATTER OF "BUSINESS".

7. IN ACCEPTING AUSTIRAN DEL'S NOTICE OF TERMINATION, U.S. DEL STATED THAT U.S. VIEWED DENUNCIATION OF INTERNATIONAL AGREEMENTS AS SERIOUS MATTER AND THAT DENUNCIATION OF AN ENTIRE AGREEMENT WHEN THERE WAS DISSATISFACTION WHICH COULD BE SUBJECT OF NEGOTIATION, WITH ONLY PORTIONS OF IT, CAME VERY CLOSE TO BEING AN UNFRIENDLY ACTION. U.S. DEL ALSO SAID THAT WHILE TWO DELEGATIONS HAD CLEARLY CONFINED THEIR DISCUSSIONS TO COMMERCIAL INTERESTS, AUSTRIAN ACTION WOULD CAUSE POLITICAL REPURCUSSIONS WHICH SHOULD NOT BE EXAGGERATED BUT WHICH WOULD NEVERTHELESS BE REAL.

8. AUSTIRAN DEL CHAIRMAN IN CLOSING SAID HE COULD NOT UNDERSTAND HOW U.S. COULD VIEW DENUNCIATION AS SERIOUS AS IT DID AND HE COULD NOT BELIEVE THERE COULD BE POLITICAL FALLOUT OF ANY KIND FROM WHAT WAS A "BUSINESS" DECISION.

9. IT SHOULD BE NOTED THAT AUSTRIAN DEL CHAIRMAN HAD INDICATED PRIVATELY FROM FIRST DAY ONWARD THAT HE HAD AUTHORITY TO DENOUNCE IF SATISFACTORY AGREEMENT COULD NOT BE REACHED. IT WAS NOT REVEALED UNTIL FINAL SESSION, HOWEVER, THAT AUSTRIAN CONCEPT OF SATISFACTORY AGREEMENT MEANT COMPLETE U.S. CAPITULATION TO AUSTRIA'S NON NEGOTIABLE DEMANDS.

10. DEPARTMENT WILL FOLLOW UP WITH PAN AM'S PLANS WHEN THEY ARE KNOWN.

VANCE

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